

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

- against -

Civil Action
No. CV- 07-0835

AGI-VR/WESSON COMPANY;
ALLOY CARBIDE COMPANY;
CHI MEI CORPORATION;
CLIMAX MOLYBDENUM COMPANY;
CLIMAX MOLYBDENUM MARKETING
CORPORATION;
COUNTY OF NASSAU, NEW YORK;
CYPRUS AMAX MINERALS COMPANY;
GENERAL ELECTRIC COMPANY;
GTE CORPORATION;
H.C. STARCK, INC.;
KENNAMETAL INC.;
M & R INDUSTRIES, INC.;
MINMETALS INC.;
OSRAM SYLVANIA CORPORATION;
PHILIPS ELECTRONICS NORTH
AMERICA CORPORATION;
SANDVIK AB;
TDY HOLDINGS, LLC; and
TDY INDUSTRIES, INC.,

(Seybert, J.)
(Orenstein, Ch. M. J.)

Defendants.

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APPENDIX J TO THE CONSENT JUDGMENT

ESCROW AGREEMENT

Pursuant to this Escrow Agreement ("Agreement") between Minmetals, Inc. and Wilson, Elser, Moskowitz, Edelman & Dicker LLP ("Wilson Elser"), the parties hereto agree as follows:

1. **Effective Date:** This effective date of this Agreement shall be the 9th day of 2007.
2. **Escrow Agent:** Minmetals, Inc. hereby designates as the escrow agent the law firm Wilson Elser ("Escrow Agent") with respect to this Agreement.
3. **Escrow Funds:** Within fifteen business days of the date on which the Consent Judgment in the action captioned United States v. AGI-VR/Wesson Co., et al., Case No. _____ Civ. _____ (E.D.N.Y. 2007) (the "Consent Judgment") is lodged with the United States District Court for the Eastern District of New York (the "Court"), Minmetals, Inc. shall transfer to the Escrow Agent funds in the amount of \$1,250,000 (the "Escrow Fund").
4. **Escrow Account:** The Escrow Agent shall deposit the Escrow Fund into an interest-bearing escrow account in accordance with the terms and provisions of this Agreement. Interest earned in this account shall accrue to the benefit of Minmetals, Inc., and shall not become part of the Escrow Funds.
5. **Escrow Disbursement:** The Escrow Agent is hereby directed to hold the Escrow Funds in escrow until one of the following events happens:
 - (a) Entry of the Consent Judgment by the Court.) Within thirty days after the Escrow Agent receives notification of such entry, the Escrow Agent shall transfer the Escrow Fund to the following account maintained by the United States Department of the Treasury:

DESCRIPTION	CODING INFORMATION
Receiving Bank ABA Code	021030004
Message Type Code	1000
Wire Amount	\$
Receiving Beneficiary Bank, Name & Account No.	TREAS NYC/CTR/BNF=DEPT OF JUSTICE/AC-15030001
Required Beneficiary Information: *Collection Office Identifier *Debtor Name *Collection Office Claim No.	USAO/NYE

Such payment shall reference EPA Region II, Site/Spill Identification Number 024L, USAO Number 1999V00190 and DOJ Case Number 90-11-3-06561/2; or

- (b) The Court declines to enter the Consent Judgment. In such an event, the Escrow Agent shall return the Escrow Fund, plus any accrued interest, to Minmetals, Inc. within thirty days after the Escrow Agent receives notification of the determination by the Court not to enter the Consent Judgment; or
- (c) The United States determines not to seek approval of the Consent Judgment. In such an event, the Escrow Agent shall return the Escrow Fund, plus any accrued interest, to Minmetals, Inc. within thirty days after the Escrow Agent receives notification of the determination by the United States not to seek approval of the Consent Judgment;

6. **Interest Disbursement:** All interest earned on the Escrow Fund shall be held by the Escrow Agent under the terms of this agreement and shall be paid to Minmetals, Inc. within thirty days of disposition of the Escrow Fund pursuant to paragraphs "5.(a)," "5.(b)," or "5.(c)," above or "12(f)" or "12(g)" below.

7. **Counterparts:** This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only such counterpart in proving this Agreement.

8. **Successors:** The provisions of this Agreement shall be binding upon and inure to the benefit of the successors (including those defined in "12.(f)" below) of the parties hereto.

9. **Severability:** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

10. **Amendment:** No change in or amendment to this Agreement shall be valid unless set forth in writing and signed by all parties to this Agreement and approved by the United States.

11. **Expiration:** Following the disposition of the Escrow Fund pursuant to paragraphs "5.(a)," "5.(b)," or "5.(c)," and all accrued interest on the Escrow Funds are paid to Minmetals, Inc. pursuant to paragraph 6 above, this Agreement shall terminate and shall be of no further force and effect.

12. **Responsibility of the Escrow Agent:**

- (a) The Escrow Agent shall have no duties or responsibilities except as expressly provided in this Agreement, and shall neither be obligated to recognize nor have any liability or

responsibility arising under any other agreement to which the Escrow Agent is not a party, even though reference thereto may be made herein. The Escrow Agent shall not be required to inquire as to the performance of any obligation under any agreement or document, including, without limitation, the Consent Judgment or any agreements or documents referred to herein or therein, nor shall the Escrow Agent be under any obligation to take any legal action in connection with this Agreement or towards its enforcement or performance or to appear in, prosecute or defend any action or legal proceeding in connection herewith.

- (b) With respect to: (i) the authority to execute the Consent Judgment; (ii) the fact of execution or; (iii) the right of any person executing the Consent Judgment, the Escrow Agent shall have the right to rely on and shall be protected in acting upon any written or electronic mail notice, request, waiver, consent, receipt or other paper or document or communication from Minmetals, Inc., or any duly authorized officer or agent thereof. With respect to judicial approval of the Consent Judgment, the Escrow Agent shall have the right to rely on and shall be protected in acting upon any written or electronic mail notice, request, waiver, consent, receipt or other paper or document or communication only from: (i) the United States; or (ii) the Court.
- (c) The Escrow Agent shall not be liable for any error of judgment, or of any mistake of fact or law, or for anything that it may do or refrain from doing in connection herewith, except as may result from its own gross negligence or willful misconduct. The Escrow Agent may act or refrain from acting in respect of any matter referred to herein in full reliance upon and by and with the advice of counsel which may be selected by it (including any member of the Escrow Agent's firm) and shall not be liable and shall be fully protected in so acting or refraining from acting upon the advice of such counsel.
- (d) The duties of the Escrow Agent hereunder are solely ministerial in nature. The Escrow Agent shall have no duties or responsibilities except those expressly set forth herein. Any amendment or modification of this Agreement shall not bind the Escrow Agent unless made in accordance with paragraph 10 hereof. The participation of Wilson Elser as Escrow Agent is being undertaken as an accommodation to the parties hereto. The Escrow Agent

will not charge any fees for its services under this Agreement.

- (e) Minmetals, Inc. agrees to indemnify the Escrow Agent against and save it harmless from, any and all claims by third parties with respect to liabilities, costs, payments, damages and expenses, including, but not limited to, reasonable fees and expenses of counsel either paid to retained attorneys (who may be selected by the Escrow Agent) or amounts representing the fair value of legal services rendered to itself, incurred by the Escrow Agent by reason of its acceptance of or as a result of or in connection with its due performance of this Agreement, except as a result of its own gross negligence or willful misconduct; provided, that costs and expenses shall be advanced to the Escrow Agent until a final unappealable determination has been made that the Escrow Agent is not entitled to indemnification.
- (f) Notwithstanding anything in this Agreement to the contrary, the Escrow Agent shall be entitled at any time during the pendency of this Agreement to resign as escrow agent by giving written notice of such resignation to Minmetals, Inc., with a copy to Deborah B. Zwany, United States Attorney's Office, One Pierrepont Plaza, 14th Floor, Brooklyn, New York 11201 ("U.S.A.O.") by overnight mail, and if the Escrow Agent is not notified in writing by Minmetals, Inc. of the appointment of a successor escrow agent within ten days after the mailing of its notice of resignation, the Escrow Agent shall deliver all of the Escrow Fund to any Court of competent jurisdiction, including but not limited to the Court. Notwithstanding the foregoing, if the Escrow Agent is notified of the appointment of a successor escrow agent within ten days after the mailing of its notice of resignation, the Escrow Agent shall transfer all of the Escrow Fund to such successor Escrow Agent. In such event, the U.S.A.O shall be notified no later than ten business days prior to any transfer of funds to the successor Escrow Agent.
- (g) In the event of a dispute between Minmetals, Inc., the United States or the Escrow Agent, as to any or all of the provisions of this Agreement or the performance thereof, the Escrow Agent is authorized to, and shall, tender the escrowed funds to the Clerk of the Court, for disposition as the Court deems appropriate upon resolution of such dispute

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- (h) Upon release and delivery of the Escrow Fund in accordance with this Agreement, whether to the United States Department of the Treasury or Minmetals, Inc. or a Court of competent jurisdiction, and all accrued interest earned on the Escrow Funds are paid to Minmetals, Inc., the Escrow Agent shall stand fully relieved and discharged of any further duties or responsibilities hereunder; however, the exculpation and indemnification provisions of this Paragraph "12. Responsibility of the Escrow Agent" shall survive termination.

MINMETALS, INC.

By: _____

Jing Miao
[TITLE]

Date: _____

Escrow Agent: WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By: _____

Michael J. Case

Date: 2/5/06

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- (h) Upon release and delivery of the Escrow Fund in accordance with this Agreement, whether to the United States Department of the Treasury or Minmetals, Inc. or a Court of competent jurisdiction, and all accrued interest earned on the Escrow Funds are paid to Minmetals, Inc., the Escrow Agent shall stand fully relieved and discharged of any further duties or responsibilities hereunder; however, the exculpation and indemnification provisions of this Paragraph "12. Responsibility of the Escrow Agent" shall survive termination.

MINMETALS, INC. 7

By: _____

Jing Miao

[Manager]

Date: 01/09/2007

Escrow Agent: WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

By: _____

Michael J. Case

Date: _____